

GARRIGUES

NEWSLETTER
TAX CHINA

OCTOBER / DECEMBER 2017



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LAW BRIEF

NAME	DATE OF EFFECTIVENESS	GARRIGUES INSIGHT
<p>税总函[2017]403号 关于取消一批涉税事项和报送资料的通知/ Shui Zong Han [2017] No. 403 Circular on Cancelling Several Tax-related Matters and the Submission of Documents ("Circular")</p>	15/09/2017	<p>I. If the relevant licenses and approval documents ("Documents") can be obtained through information sharing among authorities, taxpayers are only required to provide the information of the Documents for verification, including the name, the file number, the code, etc. Taxpayers are no longer required to provide original copies or photocopies of these Documents. However, taxpayers shall submit the relevant materials in the case that the Documents could not be obtained through information sharing among authorities.</p> <p>II. For tax-related matters which are included in the real-name mechanism, tax handling person or agent only needs to provide the original copy of identity documents when conducting the said matters. The photocopies of the identity documents and the tax registration certificates are no longer required by tax authorities.</p> <p>III. The lists of cancelled tax-related matters and cancelled Documents were also issued by the Circular.</p>
<p>财税[2017]76号 关于延续小微企业增值税政策的通知/ Cai Shui [2017] No. 76 Circular on Extending the Value-added Tax ("VAT") Policies for Small-scale Enterprises</p>	20/10/2017	<p>The small-scale enterprises, whose monthly sales revenue ranges from RMB 20,000 (including RMB 20,000) to RMB 30,000, are still eligible for VAT exemption for the period from January 1, 2018 to December 31, 2020.</p>
<p>海关总署公告2017年第51号 关于调整进口减免税货物监管年限的公告/ Announcement of the General Administration of Customs [2017] No. 51 Announcement on Adjusting the Supervision Period for Imported Goods with Tariff Reduction and Exemption</p>	24/10/2017	<p>The supervision period for imported goods with tariff reduction and exemption is adjusted to 8 years for ships and airplanes, 6 years for motor vehicles and 3 years for other goods.</p>
<p>国家税务总局公告2017年第35号 国家税务总局公告关于调整完善外贸综合服务企业办理出口货物退(免)税有关事项的公告/ Announcement of the State Administration of Taxation ("SAT") [2017] No. 35 Announcement of the SAT on Adjusting and Improving Relevant Matters Concerning Tax Refund (Exemption) on Exported Goods Handled by Integrated Foreign Trade Service Enterprises ("IFTSEs")</p>	01/11/2017	<p>I. Conditions of domestic manufacturing enterprises ("DMEs") authorizing IFTSEs to proceed export tax refund ("TRA")</p> <p>A DME shall meet the following conditions in order to be eligible for TRA, including:</p> <ul style="list-style-type: none">• Exported goods are produced or deemed as produced by the DME;• The DME is a general VAT payer and has performed the registration of export VAT refund (exemption);• The DME has signed export contracts with overseas entities or individuals;

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- A service agreement has been signed between the DME and the IFTSE ("Agreement"), stipulating the legal responsibilities and the services which will be provided by the IFTSE; and
- The bank account information of the DME for tax refund has been reported to the competent tax authority.

II. Registration and de-registration of the TRA

The export tax refund (exemption) registration shall be conducted by the DME before the registration of TRA with registration form, bank account information and the Agreement. If the registered information is changed, the updated information shall be submitted within 30 days.

The de-registration shall be conducted when the tax refund is settled by the competent tax authority of the IFTSE.

III. Tax refund

DME shall pay the VAT and issue special VAT invoices to the IFTSE first in order to get the tax refund.

IV. Legal responsibilities

DME shall assume the legal responsibilities in the case that there is any non-compliance.

V. Other issues

In the case that invoices were issued before November 1, 2017 but the goods are exported after November 1, 2017 (including November 1, 2017), Announcement of the SAT [2014] No. 13 shall be applied.

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财税[2017] 79号 | 关于将技术先进型服务企业所得税政策推广至全国实施的通知/

Cai Shui [2017] No. 79 | Circular Regarding Expanding the Preferential Enterprise Income Tax ("EIT") Policies Related to Technologically Advanced Service Companies ("TASCs") on a Nationwide Basis

02/11/2017

I. Preferential EIT policies for TASCs

TASCs are eligible for the following preferential EIT policies from January 1, 2017:

- Preferential EIT rate of 15%; and
- Higher deduction limit for employee education expenses at 8% of total salaries.

II. TASC recognition

Enterprises which meet the following conditions can be recognized as TASCs:

- A legal entity registered in Mainland China;
- Technologically advanced or have strong research and development capacity;
- The proportion of the headcount graduated with associate degree, annual income of the prescribed services and the annual income of offshore outsourced services can meet the specified requirements.

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Enterprises shall submit an application to the technology department at provincial level in order to conduct the TASC recognition.

III. Administration

A recognized TASC shall register at the competent tax authorities to enjoy the abovementioned preferential EIT policies. Where the competent tax authorities find a TASC unqualified, the competent tax authorities will engage accreditation institutions for reassessment.

国家税务总局公告2017年第40号 | 国家税务总局关于研发费用税前加计扣除归集范围有关问题的公告/
Announcement of the SAT [2017] No. 40 | Announcement of the SAT on Issues concerning the Scope of Research and Development ("R&D") Expenses Eligible for the Super Deduction ("Announcement 40")

08/11/2017

Compared to the former regulations, i.e. Announcement of SAT [2015] No. 97 and Cai Shui [2015] No. 119, Announcement 40 has widened the scope of R&D expenses that could be eligible for the 50% super deduction and has clarified some issues.

I. The widened scope of R&D expenses

The following expenses may be treated as R&D expenses:

- Wages and salaries paid to outsourced R&D staffs by labor dispatching enterprises even if those staffs do not have a contractual relationship with the enterprise that accepts services from the labor dispatching enterprises;
- Tax deductible share incentives of R&D staffs;
- Other expenses, including benefits, supplementary pensions and supplementary medical insurance which are directly related to R&D activities. (The upper limit of other expenses applied on the proportion of R&D super deduction remains at 10% of the total super deductible R&D expenses); and
- Accelerated depreciation (or amortization) of instruments and equipment (or intangible assets)

II. Offset of R&D expenses

In the case that the enterprise gets subsidiary from the government, which offsets the R&D expenses and is not recognized as income from accounting perspective, only the net R&D expenses can enjoy super deduction.

III. Other issues

The timing of the capitalization of the intangible assets achieved from R&D activities is the same as that of the accounting policy.

R&D cost for unsuccessful R&D activities can be subject to super deduction.

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国家税务总局公告2017年第37号 | 国家税务总局关于非居民企业所得税源泉扣缴有关问题的公告/
Announcement of the SAT [2017] No.37 | Announcement of the SAT on the Tax Collection of China-sourced Income of Non-resident Enterprises ("Announcement 37")

01/12/2017

I. Except the outbound remittances of services, other non-trading contracts of outbound remittances are no longer required to be registered at the competent tax authority. However, a separate accounting book and proper keeping of documents are still necessary.

II. When determining the taxable income of property transfer, taxpayers or withholding agents shall exchange the income in foreign currency into RMB first. Different exchange rates will be applied subject to different tax payment situations, including:

- The taxes are withheld and paid by the withholding agent;
- The taxes are settled by the taxpayer through self-filing; and
- Compulsory tax payments within a specified period imposed by the competent tax authority.

III. The costs of transferred shares are determined by the percentage of transferred shares and the total costs of the shares that have been invested or acquired for multiple times but are partially transferred.

IV. The withholding agent shall file tax returns and pay withholding taxes within 7 days when the withholding obligation arises. In the case that the taxes are settled by the taxpayer through self-filing before being imposed by the competent tax authority, the taxpayer will be regarded as having completed the tax obligation in time.

税委会[2017]25号 | 国务院关税税则委员会关于调整部分消费品进口关税的通知/
Shui Wei Hui [2017] No. 25 | Circular of the Customs Tariff Commission ("CTC") of the State Council on Adjusting Import Tariffs on Certain Consumer Products

01/12/2017

Temporary adjustment (reduction) of the tariff rates on various consumer products imported to China, such as food, health product, pharmaceuticals, daily used chemical products, clothing, household equipment, groceries, etc., is in effect since December 1, 2017. More details could be found in the official website of the Ministry of Finance of the People's Republic of China.

海关总署公告2017年第58号 | 关于推广减免税申请无纸化及取消减免税备案的公告/
Announcement of the General Administration of Customs [2017] No.58 | Announcement on Introducing the Paperless Application for Tax Reduction and Exemption and Abolishing the Record-filing of Tax Reduction and Exemption ("Announcement")

15/12/2017

I. Application with the tax reduction and exemption declaration system ("System")

A tax reduction or exemption applicant ("Applicant") can submit the application forms together with the electronic data through the System instead of submitting any written materials.

II. Provision of relevant information

The applicant may provide supporting documents such as the qualification and quota of the tax-free imported goods to Customs when it handles the formalities of tax reliefs for imported goods for the first time. It is not necessary to conduct registrations with Customs in advance.

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III. Standards of the application for tax reduction and exemption

The appendix of the Announcement explains the standards of the application for tax reduction and exemption in the System.

国家税务总局公告2017年第45号| 国家税务总局关于增值税发票管理若干事项的公告/

Announcement of the State Administration of Taxation [2017] No. 45 | Announcement on Several Issues Regarding the Administration of Value-added Tax ("VAT") Invoices ("Announcement 45")

18/12/2017

I. Introduction of the tax classification code for goods and services

Tax classification code for goods and services will automatically appear in "Goods or Taxable Services" item on VAT invoices (including special VAT invoices, general VAT invoices and general electronic VAT invoices).

II. Expansion of the pilot scope of special VAT invoice issuance for small-scale VAT taxpayers

- Qualified small-scale VAT taxpayers in industry, information transmission, software and information technology ("Pilot Taxpayers") will be eligible for issuing special VAT invoices in the new VAT invoice management system ("New System") since February 1, 2018.
- Pilot Taxpayers selling immovable property shall ask local tax authority to issue special VAT invoices on behalf of the Pilot Taxpayers.
- Pilot Taxpayers are required to report the tax amount issued for special VAT invoices to the competent tax authority.

III. Issuance of special VAT invoices in the New System for second-hand car business

Entities selling second-hand cars are required to issue special VAT invoices via the New System since April 1, 2018.

国家税务总局公告2017年第44号 | 国家税务总局关于增值税普通发票管理有关事项的公告/

Announcement of the State Administration of Taxation ("SAT") [2017] No. 44 | Announcement on Issues relating to the Administration of General Value-added Tax Invoices ("Announcement 44")

01/01/2018

I. Adjustment of the invoice code on general VAT invoices (exclude electronic invoice and rolled invoice) ("General VAT Invoice")

The invoice codes on General VAT Invoices are adjusted to 12-digit code. Unused General VAT Invoices with 10-digit invoice codes shall remain valid.

II. General VAT Invoices printed with the name of a corporate taxpayer

- Corporate taxpayers may file a written application with the local State Administration of Taxation for using General VAT Invoices printed with its own corporate name. SAT shall verify and confirm the type and quantity of invoices printed. Taxpayers have to issue General VAT Invoices through the new system.

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- General VAT Invoices printed with the name of a corporate taxpayer shall be printed by the manufacturers who win the bid in the SAT's bidding procurement and printed with the special seal for corporate invoices.
- Enterprises using General VAT Invoices printed with its own corporate name shall directly settle printing fees with the invoice printing enterprises in accordance with Shui Zong Fa [2013] No.53.

中华人民共和国主席令第61号 | 中华人民共和国环境保护税法/
Order of the President of the People's Republic of China ("China") No.61
| PRC Environment Protection Tax ("EPT") Law

01/01/2018

I. Taxpayers

Enterprises and other producers who directly emit taxable pollutants into the environment in the territory of China or in other sea areas governed by China are the taxpayers of EPT.

II. Taxable pollutants

The said taxable pollutants include air pollutants, water pollutants, solid waste and noise specified in the Table of Taxable Items and Tax Rates and Table of Taxable Pollutants and Equivalent Weight.

III. Situations that are not subject to EPT

The following situations are not subject to EPT:

- Enterprises and other producers emit taxable pollutants to the pollutant disposing centers established according to the laws; and
- Enterprises and other producers store or dispose solid wastes in qualified facilities or places.

IV. Tax preferential policies

The following pollutants are EPT exempted:

- Taxable pollutants emitted from agricultural production (excluding scale-intensive farming);
- Taxable pollutants emitted by movable pollution sources, such as motor vehicles, locomotives, non-road mobile machinery, ships, aircraft, etc.;
- Taxable pollutants, which are emitted from the disposing centers of polluted water or rubbishes established according to the laws, without exceeding the national and local standards;
- Solid waste comprehensively utilized by taxpayers according to the standards of the national and local environment protection; and
- Other tax exempted circumstances approved by the State Council.

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税总发[2017]124号 | 关于印发《增值税纳税申报比对管理操作规程（试行）》的通知/

Shui Zong Fa [2017] No.124 | Notice regarding the “Administrative Guidelines on Information Verification of VAT Filing (Trial)” (“Notice”)

01/03/2018

The Notice has specified that the tax authorities will check the accuracy of VAT returns submitted by taxpayers and take further actions based on the different results of the verification.

I. Information to be verified

The following information shall be verified:

- VAT returns, schedules and VAT invoices;
- Certificates obtained by general VAT taxpayers for input VAT credits;
- Tax payment information of taxpayers;
- Registration information of preferential VAT policies; and
- Other information as required.

II. Further actions to be taken

If the information verified shows a consistent result, the competent tax authority will unlock the tax control device of taxpayers.

If the information verified shows an inconsistent result, the competent tax authority will notify taxpayers and take further actions until the reason for such inconsistency is justified or the punishment has been conducted.

OTHER TAX LAWS

1. 财税[2017] 67号 | 关于调整铁路和航空运输企业汇总缴纳增值税分支机构名单的通知/
Cai Shui [2017] No. 67 | Circular on Adjusting the Name List of Branches of Railway Transportation Enterprises and Air Transportation Enterprises Engaging in VAT Consolidated Filings
2. 财税[2017]77号 | 财政部、国家税务总局关于支持小微企业融资有关税收政策的通知/
Cai Shui [2017] No.77 | Circular of the Ministry of Finance (“MOF”) and the State Administration of Taxation (“SAT”) on Relevant Tax Policies in Support of Fundraising of Small and Micro Enterprises
3. 财税[2017]78号 | 关于继续执行沪港股票市场交易互联互通机制有关个人所得税政策的通知/
Cai Shui [2017] No.78 | Circular on Continuing to Implement Individual Income Tax Policies for the Connectivity Mechanism for Transactions in the Shanghai and Hong Kong Stock Markets
4. 财税[2017]80号 | 关于印发《扩大水资源税改革试点实施办法》的通知/
Cai Shui [2017] No.80 | Circular on Issuing the Implementing Measures for Expanding the Water Resources Tax Pilot Reform
5. 财政部、国家税务总局关于《中华人民共和国资源税法(征求意见稿)》向社会公开征求意见的通知/
Circular of the MOF and the SAT on Seeking Public Comments on the Law of the People’s Republic of China on Resource Tax

6. 国家税务总局公告2017年第31号 | 国家税务总局关于发布《税务师事务所行政登记规程（试行）》的公告/
Announcement of the SAT [2017] No.31 | Announcement of the SAT on Promulgating the Administrative Registration Procedures for Tax Agent Firms (Trial Implementation)
7. 国家税务总局公告2017年第32号 | 国家税务总局关于卷烟消费税计税价格核定管理有关问题的公告/
Announcement of the SAT [2017] No.32 | Announcement of the SAT on Issues Concerning the Administration of Assessing the Taxable Prices of Cigarettes for Consumption Tax Purposes
8. 国家税务总局公告2017年第33号 | 国家税务总局关于修订税务行政处罚(简易)执法文书的公告/
Announcement of the SAT [2017] No.33 | Announcement of the SAT on Revising the Enforcement Document of Tax Administration Penalty (Simplified)
9. 国家税务总局公告2017年第34号 | 国家税务总局关于全民所有制企业公司制改制企业所得税处理问题的公告/
Announcement of the SAT [2017] No.34 | Announcement of the SAT on the Treatment of EIT on the Restructuring of the Corporate System of Wholly State-owned Enterprises
10. 国家税务总局公告2017年第38号 | 国家税务总局关于《中华人民共和国和罗马尼亚对所得消除双重征税和防止逃避税的协定》生效执行的公告/
Announcement of the SAT [2017] No.38 | Announcement of the SAT on the Effectiveness of the Agreement between the People's Republic of China and Romania for the Elimination of Double Taxation with Respect to Taxes on Income and the Prevention of Tax Evasion and Avoidance
11. 国家税务总局、外交部公告2017年第39号 | 国家税务总局、外交部关于外国驻华使(领)馆及其馆员在华购买货物和服务增值税退税管理有关问题的公告/
Announcement of the SAT [2017] No.39 | Announcement of the SAT and the Ministry of Foreign Affairs on Relevant Issues Concerning the Administration of VAT Refund for Goods and Services Purchased in China by Foreign Embassies (Consulates) in China and Their Employees
12. 国家税务总局公告2017年第41号 | 国家税务总局关于企业境外承包工程税收抵免凭证有关问题的公告/
Announcement of the SAT [2017] No. 41 | Announcement of the SAT on Related Issues of Tax Credit Certificates of Overseas Engineering Constructions of Enterprises
13. 财关税[2017]32号 | 关于干玉米酒糟进口环节增值税政策有关问题的通知/
Cai Guan Shui [2017] No.32 | Circular on the Policy of Import VAT of Corn Distillers
14. 税委会[2017]22号 | 国务院关税税则委员会关于给予冈比亚共和国、圣多美和普林西比民主共和国97%税目产品零关税待遇的通知/
Shui Wei Hui [2017] No. 22 | Circular of the CTC of the State Council on Zero Tariff Treatment for 97% Items Imported from the Democratic Republic of The Gambia, Sao Tome and Principe
15. 海关总署公告2017年第47号 | 关于明确保税油跨关区直供业务有关事项的公告/
Announcement of the General Administration of Customs ("GAC") [2017] No.47 | Announcement on Providing Clarity on Relevant Matters Concerning the Direct Supply of Bonded Oil Across Different Customs Districts
16. 海关总署公告2017年第48号 | 关于规范转关运输业务的公告/
Announcement of the GAC [2017] No. 48 | Announcement on Regulating the Tran-customs Transportation Business

17. 海关总署公告2017年第53号 | 关于实施冈比亚共和国、圣多美和普林西比民主共和国97%税目产品零关税待遇的公告/
Announcement of the GAC [2017] No. 53 | Announcement on the Implementation of Zero Tariff Treatment for 97% Items Imported from the Democratic Republic of The Gambia, Sao Tome and Principe
18. 海关总署公告2017年第55号 | 关于经香港输往内地葡萄酒全面实施通关征税便利措施的公告/
Announcement of the GAC [2017] No. 55 | Announcement on the Implementation of Measures for Convenient Tax Collection on the Wine Transported from Hong Kong to Mainland China
19. 商务部关于2018年食糖进口关税配额申请和分配细则的公告/
Announcement of the MOC on the Application and Allocation of Import Tariff Quota of Sugar in 2018
20. 商务部关于公示2018年食糖进口关税配额申请企业名单的通知/
Circular of the MOC on the Disclosure of the Name List of the Enterprises Applying for the Import Tariff Quotas of Sugar for Year 2018
21. 商务部公告2017年第69号 | 发布2018年化肥进口关税配额总量、分配原则及相关程序/
Announcement of the MOC [2017] No. 69 | Announcement on the Issuance of 2018 Import Tariff Quotas of Fertilizer, Distribution Principles and Related Procedures
22. 全国人民代表大会常务委员会 | 船舶吨税法(草案)征求意见/
The National People's Congress | Opinions Sought on the Law on Vessel Tonnage Tax (Draft)
23. 中华人民共和国工业和信息化部、国家税务总局公告2017年第38号 | 国家税务总局公告关于发布《免征车辆购置税的新能源汽车车型目录》(第十二批)公告/
Announcement of the Ministry of Industry and Information Technology ("MIIT") and the SAT [2017] No. 38 | Announcement of the SAT on the Issuance of "Directory of New Energy Vehicles Exempted from Vehicle Purchase Tax" (The Twelfth Batch)
24. 中华人民共和国工业和信息化部、国家税务总局公告2017年第46号 | 免征车辆购置税的新能源汽车车型目录(第十三批)/
Announcement of the MIIT and the SAT [2017] No. 46 | Announcement on the Issuance of "Directory of New Energy Vehicles Exempted from Vehicle Purchase Tax" (The Thirteenth Batch)
25. 税总函[2017]422号 | 关于纳税人销售国家临时存储粮食发票开具有关问题的批复/
Shui Zong Han [2017] No. 422 | Official Reply on Issues concerning Invoicing by Taxpayers for the Sale of Grain Temporarily Reserved by the State
26. 税总发[2017]99号 | 国家税务总局 住房和城乡建设部 财政部关于进一步做好建筑行业营改增试点工作的意见/
Shui Zong Fa [2017] No. 99 | Opinions of SAT, Ministry of Housing and Urban-rural Development and MOF on Further Improving the Pilot Program of the Collection of Value-added Tax in Lieu of Business Tax in Construction Industry
27. 税总办发[2017]125号 | 关于全面推行财政票据电子化管理系统的通知/
Shui Zong Ban Fa [2017] No. 125 | Circular on the Comprehensive Implementation of the Electronic Management System of Financial Notes

28. 财关税[2017] 21号 | 关于第二批享受进口税收优惠政策的中资“方便旗”船舶清单的通知/
Cai Gun Shui [2017] No. 21 | Circular on the List of the Second Batch of China Funded Ships with Flags of Convenience Enjoying Import Tax Preferential Policy
29. 国家税务总局公告2017年第58号 | 免征车辆购置税的新能源汽车车型目录(第十五批)/
Announcement of the SAT [2017] No.58 | Catalogue of New Energy Vehicle Models Exempted from Vehicle Purchase Tax (No.15)
30. 国家税务总局公告2017年第56号 | 《免征车辆购置税的新能源汽车车型目录》(第十四批)/
Announcement of the SAT [2017] No.56 | Catalogue of New Energy Vehicle Models Exempted from Vehicle Purchase Tax (No.14)
31. 国家税务总局公告2017年第46号|国家税务总局关于明确国别报告有关事项的公告/
Announcement of the SAT [2017] No.46 | Announcement of the SAT on Issues Concerning the Country by Country Report
32. 国家税务总局公告2017年第43号 | 国家税务总局关于简化建筑服务增值税简易计税方法备案事项的公告/
Announcement of the SAT [2017] No.43 | Announcement of the SAT on Streamlining Record-filing Matters concerning Computing Value-added Tax under the Simplified Calculation Method for Construction Services
33. 国家税务总局公告2017年第42号 | 国家税务总局关于发布《涉税专业服务信息公告与推送办法(试行)》的公告/
Announcement of the SAT [2017] No.42 | Announcement of the SAT on Issuing the Measures for Announcing and Publishing Information on Tax-related Professional Services (for Trial Implementation)
34. 税总函[2017]513号 | 国家税务总局关于纳税人转让加油站房地产有关土地增值税计税收入确认问题的批复/
Shui Zong Han [2017] No. 513 | Official Reply on Issues concerning confirmation of Land Value-Added Tax taxable Income of Taxpayers' Transferred Property of Gas Station
35. 中税协发[2017]50号 | 关于征求《涉税专业服务业务规范基本准则》等15项涉税专业服务业务规范意见的通知/
Zhong Shui Xie Fa [2017] No.50 | Notice Regarding Seeking Opinions on 15 Comments of Professional Service Regulation on “Basic Tax Related Professional Service Regulation”
36. 税总发[2017]136号 | 国家税务总局关于进一步深化国税地税联合办税的指导意见/
Shui Zong Fa [2017] No. 136 | Guiding Opinions of the SAT on Further Deepening the Joint Tax Services Offered by the State Administration of Taxation and Local Taxation Bureaus
37. 税总发[2017]135号 | 国家税务总局关于印发《税务行政应诉工作规程》的通知/
Shui Zong Fa [2017] No.135 | Notice of the SAT on Issuing “Working Process for Responses to Tax Administrative Proceedings”
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